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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2944 OF 2007

Raju @ Pradeep V. Patil .. Applicant

versus

State of Maharashtra .. Respondent

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Mr.A.P. Mundargi i/b P.P. Runwal for the applicant.
Ms.Shubhada D. Khot for original complainant.
Ms.Rajeshree M. Gadhvi, APP for the State.

CORAM : D.G.KARNIK, J

DATED : 12th December 2007

P.C.:

1. Heard learned counsel for the petitioner, learned APP for the State and with the leave of the court learned counsel for the original complainant - father of the deceased.

2. The petitioner has been arrested in

connection with crime registered under C.R. No.27 of 2007 with Sangli city police station, Sangli for an offence punishable under section 302, 120(B) and 109 r/w sec.34 of the IPC. The prosecution case in short is that there was an enmity between the deceased, who was a lawyer, and the accused no.1 on account of the suspicion of the accused no.1 that the deceased had illicit relation with his wife. It is on account of this that the accused no.1 caused the murder of the deceased. It is alleged that the murder was caused through hired assailants. It is further alleged that the petitioner acted as a conduct between the accused no.1 and the hired assailants in as much as accused no.1 paid the money to the assailants through the petitioner.

3. The prosecution case is based only on circumstantial evidence. There is no eye witness to the crime. The accusation against the petitioner is made firstly on the basis that the petitioner is the friend of the accused no.1. However the complainant (father of the deceased) has admitted that the petitioner was also a friend of the deceased. Secondly, it is alleged that several telephone calls were made between the petitioner and one Mr.Kiran Salunkhe who is alleged to be an assailant. In my view, mere exchange of a few telephone calls would

not connect the petitioner to the crime. Thirdly, it is alleged that the petitioner used to meet the accused no.1 often. If they were friends, there was nothing wrong in petitioner meeting the accused several times. There is no evidence as to what transpired in the meetings and in the absence of any evidence mere meetings between the friends cannot directly connect the petitioner to the crime. The petitioner was also a friend of the deceased. No motive is alleged which would indicate that the petitioner conspired with the accused no.1 in committing the alleged murder of his another friend.

4. The complainant in his statement has stated that there was no enmity between the petitioner and family of the deceased. He has further admitted that the financial position of the deceased is sound and he owns a grape garden. The petitioner has a permanent place of residence and the landed property in District Sangli. There is no apprehension of the petitioner absconding in the event of his release on bail.

5. The petitioner is in custody for a period of more than 10 months i.e. since 5th February 2007. Police have recorded statements of 86 witnesses. Even if some of them are dropped the possibility of

trial being over in the near future with so many witnesses is remote. The trial has not even commenced. Thus, taking an overall view of the matter and in particular taking into consideration the fact that the case is based on circumstantial evidence and that there was no enmity between the petitioner and deceased and they were friends, there is no motive for the offence, the petitioner has a landed property in Sangli and there is no apprehension on his absconding in the event of his release and also taking into consideration the fact that the petitioner is in jail for more than 10 months and there is no possibility of early disposal of the trial, in my view petitioner is entitled to a bail subject to certain conditions. I accordingly pass the following order:-

O R D E R

. Application is allowed. Petitioner be released on bail on personal bond of Rs.1,00,000/- (Rupees One lakh) with one or two local sureties to make up an aggregate amount of Rs.One lakh subject to following conditions:-

i) The petitioner shall not leave the Sangli District without informing the police.

ii) The petitioner shall not make any inducement nor give any threats to any of the prosecution witnesses nor in any manner tamper with the evidence.

iii) Petitioner shall report to the Sangli City police station once a month between 1st and 5th of every month.

(D.G. KARNIK, J)